

NANCY SWEENEY  
CLERK-DISTRICT COURT

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FILED

D. K. SWEENEY

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS & CLARK COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

DAWN RUIZ,

a.k.a. DAWN BERGAN,

Defendant.

Cause No. ADC 2003-319

JUDGMENT

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The laws and statutes of the State of Montana having first been complied with when an Information was filed herein on the 12<sup>th</sup> day of November, 2003, by John K. Kurtz, Special Deputy Lewis & Clark County Attorney, charging the Defendant with THEFT/INSURANCE FRAUD, a FELONY, in violation of Sections 45-6-301(6) and 33-1-1202(1), MCA and ATTEMPTED THEFT/INSURANCE FRAUD, a FELONY, in violation of Sections 45-6-301(6), 33-1-1202(1) and 45-4-103(1), MCA.

Thereafter, Jon G. Moog, Attorney at Law, was appointed by the Court to serve as Defendant's counsel.

The Defendant appeared and was arraigned on the 11<sup>th</sup> day of November, 2003, then and there being accompanied and represented by her counsel, was advised of the nature of the charges against her, of the maximum sentence after a plea or verdict of guilty, of her right

to remain silent, of her right to a jury trial, to require the State to prove the charges against her beyond a reasonable doubt, to cross examine witnesses, the right to present witnesses on her own behalf and her right to appeal a finding of guilty. At that time, the Defendant entered pleas of not guilty to all charges contained in the Information.

Thereafter, the Defendant, by and through her attorney, and the State entered into plea negotiations. The parties entered into a Plea Agreement on the 24<sup>th</sup> day of March, 2004, which is on file herein. The Defendant and her counsel appeared before the Court subsequently, at which time the Defendant moved to change her plea of not guilty to guilty to Count One of the Information, THEFT/INSURANCE FRAUD, a FELONY, in violation of Sections 45-6-301(6) and 33-1-1202(1), MCA.

The Court readvised the Defendant of her rights as above set forth. Having questioned the Defendant and having determined to its satisfaction that the Defendant has knowingly and voluntarily entered a plea of guilty to Count One with advice from counsel, to the charge of THEFT/INSURANCE FRAUD, a FELONY, in violation of Sections 45-6-301(6) and 33-1-1202(1), MCA, the Court accepted the Defendant's plea of guilty to Count One of the Information. The State then moved to dismiss the remaining count of the Information.

The Defendant then advised the Court that she wished to have sentence imposed immediately. Neither the State nor the Defendant presented any witnesses in aggravation or mitigation of the sentence.

The Court has considered the Plea Agreement. The Court further notes that the Defendant has agreed to certain other conditions set forth in the Plea Agreement.

The Defendant having advised the Court that there was no legal cause why judgment should not be entered, and having waived the time for imposition of sentence, the Court imposed the following judgment and ordered the same filed.

For the foregoing reasons, it is the JUDGMENT of this Court that the Defendant is hereby sentenced to 10 (ten) years with the Montana State Women's Prison, with all 10 years suspended. The Defendant's sentence shall run concurrent with any sentence imposed in Lewis & Clark County Cause No. ADC 2003-32. Suspension of the Defendant's sentence is conditioned upon the following conditions:

a. That during the 10-year period of suspended sentence, the Defendant shall remain under the supervision of the Montana Department of Corrections, Bureau of Probation and Parole, and will during that period remain a law and abiding citizen, will obey all rules of probation, all laws and statutes of the United States of America, the State of Montana and of the city or town in which she shall reside and/or pass through.

b. That any conditions of probation/supervision recommended by the First Judicial District Probation & Parole Officer shall be incorporated in the sentencing order.

c. That the Defendant shall not possess, purchase, sell or give any narcotic or dangerous drug or imitation dangerous drug except on the prescription of a licensed physician.

d. That the Defendant shall submit to alcohol, narcotic and/or dangerous drug tests as required by her probation officer and shall submit to a search of her person, automobile or place of residence by her probation officer at any time of the day or night, with or without a search warrant upon reasonable cause as ascertained by her probation officer, and that she shall submit to random samples of her breath, blood and/or urine for analysis at any time required by her probation officer.

e. That the Defendant shall not drink alcoholic beverages or frequent any bar, tavern, saloon or other premises where the chief item of sale or for consumption is alcoholic beverages.

f. That the Defendant waive her right to speedy trial on Count Two of the Information on file herein.

g) That the Defendant immediately pay restitution to Farm Bureau Insurance Company in the amount of \$4,646.68.

h) That the Defendant shall immediately pay to the Lewis & Clark County Restitution Officer the mandatory \$55.00 surcharge.

If, the Defendant fails to comply in any respect with the terms of the Plea Agreement on file herein between March 24<sup>th</sup>, 2004 and March 24<sup>th</sup>, 2014, then, in that event, at the option of the State, the State shall be free to recommend any legal sentence.

Dated this 24 day of March, 2004.

DOROTHY McCARTER

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Dorothy McCarter, District Judge